

REMARKS

The Advisory Action

In the advisory action dated January 2, 2004, the Examiner indicated that the proposed amendments to the claims would not be entered as the recitation of "treating cancer" and "a patient receiving a chemotherapeutic agent" was alleged to raise new matters requiring further consideration and/or search.

It was further indicated that the outstanding rejection under 35 U.S.C. 112, second paragraph, and one of the outstanding rejections under 35 U.S.C. 112, first paragraph for enablement would be overcome upon entry of the amended claims. However, the rejection under 35 U.S.C. 112, first paragraph for alleged lack of enablement of the instantly disclosed hybridoma cell line would be maintained as the receipt of deposit under the Budapest Treaty allegedly failed to state that all restrictions upon the availability to the public of the deposited biological material will be irrevocably removed upon the granting of a patent on this application.

The Claims

Claims 26-44 are currently pending in the application. Claim 26 has been amended to recite a method of "treating cancer" comprising administering "to a patient a chemotherapeutic agent and" a monoclonal antibody, or fragment thereof, which binds to a receptor recognized by a human stem cell factor, "wherein the antibody or fragment is administered" in an amount sufficient to inhibit binding of stem cell factor to the receptor or to decrease the growth and/or development of receptor-containing cells. Support for these amendments is found in the specification at p. 20, line 19 to p. 21, line 21; p. 17, line 25 to p. 18, line 14; and original claims 14, 15 and 16. Applicants respectfully request entry of the amendments.

Rejection under 35 U.S.C. 112, second paragraph

Claims 26-44 are rejected under 35 U.S.C. 112, second paragraph, as the recitation of the terms "modify" and "sensitivity" are alleged to be indefinite. Without

acquiescing to the rejection, Applicants have amended Claim 26 to delete reference to these terms, thereby rendering the rejection moot.

Rejection under 35 U.S.C. 112, first paragraph

Claims 26-44 are rejected under 35 U.S.C. 112, first paragraph, as the specification allegedly does not enable a method of modifying the sensitivity of cells to chemotherapeutic agents by adding an antibody to the cells. Without acquiescing to the rejection, Applicants have amended Claim 26 to delete reference to "modifying the sensitivity of cells to chemotherapeutic agent", thereby rendering the rejection moot.

Claims 27 and 28 remain rejected under 35 U.S.C. 112, first paragraph, as the specification allegedly does not enable the instantly disclosed hybridoma cell line. Applicants submit herewith as Exhibit A a Declaration of Biological Culture Deposit signed by Virginia C. Broudy, one of the named inventors, which states that all restrictions upon the availability to the public of the deposited biological material will be irrevocably removed upon the granting of a patent on this application. In view of the submission, Applicants request that the rejection be withdrawn.

CONCLUSION

Claims 26-44 are in condition for allowance and an early notice thereof is solicited.

Respectfully submitted,



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